

Executive Summary – Enforcement Matter – Case No. 42023

City of Madisonville

RN101719821

Docket No. 2011-1131-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Madisonville Wastewater Plant, located 550 feet west of South Martin Luther King Street and 750 feet south of the intersection of South Martin Luther King Street and 4th Street, Madison County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 28, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,860

Amount Deferred for Expedited Settlement: \$1,572

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$6,288

Name of SEP: Austin Parks Foundation, Restoration and Rehabilitation of the Barton Springs Bypass Tunnel

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 42023

City of Madisonville

RN101719821

Docket No. 2011-1131-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 9, 2011

Date(s) of NOE(s): June 24, 2011

Violation Information

Failed to comply with permitted effluent limits for ammonia nitrogen and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010215001, Final Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010215001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Executive Summary – Enforcement Matter – Case No. 42023
City of Madisonville
RN101719821
Docket No. 2011-1131-MWD-E

Respondent: The Honorable Terri Creel, Mayor, City of Madisonville, 210 West Cottonwood Street, Madisonville, Texas 77864

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-1131-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Madisonville

Penalty Amount: Six Thousand Two Hundred Eighty-Eight Dollars (\$6,288)

SEP Offset Amount: Six Thousand Two Hundred Eighty-Eight Dollars (\$6,288)

Type of SEP: Pre-approved

Third-Party Recipient: Austin Parks Foundation

Project Name: Restoration and Rehabilitation of the Barton Springs Bypass Tunnel

Location of SEP: Bastrop, Blanco, Burnett, Caldwell, Fayette, Hays, Lee, Llano, Travis, and Williamson Counties

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP offset amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to the **Austin Parks Foundation** for the *Restoration and Rehabilitation of the Barton Springs Pool Bypass Tunnel*. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the Third-Party Recipient and the TCEQ (the "Project"). The deteriorated condition of the Barton Springs Pool Bypass tunnel results in a significant increase of pollutants from urban runoff into the pool. Specifically, this SEP will restore and rehabilitate the Barton Springs Pool bypass tunnel inlet grate and outlet valve by providing funds for the engineering design, materials and construction activities to repair the tunnel.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This Project benefits water quality by reducing the amount of pollutants reaching the environment.

C. Minimum Expenditure

Respondent shall contribute at least the SEP offset amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP offset amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Austin Parks Foundation
Charlie McCabe, Executive Director
816 Congress Avenue
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
PO Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP offset amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP offset amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP offset amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for

City of Madisonville
Agreed Order - Attachment A

reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Jul-2011	Screening	6-Jul-2011	EPA Due	
	PCW	7-Jul-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Madisonville
Reg. Ent. Ref. No.	RN101719821
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	42023	No. of Violations	1
Docket No.	2011-1131-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$3,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **162.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,860**

Notes: Enhancement for one NOV with dissimilar violations, one NOV with same/similar violations, 19 months of self-reported effluent violations, and three orders with denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$352
Approx. Cost of Compliance \$4,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$7,860**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$7,860**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$7,860**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,572**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$6,288**

Screening Date 6-Jul-2011

Docket No. 2011-1131-MWD-E

PCW

Respondent City of Madisonville

Policy Revision 2 (September 2002)

Case ID No. 42023

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101719821

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	20	100%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 162%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations, one NOV with same/similar violations, 19 months of self-reported effluent violations, and three orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 162%

Screening Date 6-Jul-2011

Docket No. 2011-1131-MWD-E

PCW

Respondent City of Madisonville

Policy Revision 2 (September 2002)

Case ID No. 42023

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101719821

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010215001, Final Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on June 9, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 89 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$352

Violation Final Penalty Total \$7,860

This violation Final Assessed Penalty (adjusted for limits) \$7,860

Economic Benefit Worksheet

Respondent City of Madisonville
Case ID No. 42023
Red. Ent. Reference No. RN101719821
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$4,000	30-Jun-2010	2-Apr-2012	1.76	\$352	n/a	\$352

Notes for DELAYED costs

Estimated cost to repair the rotors in the oxidation ditch to return to compliance with all permitted effluent limits. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,000

TOTAL

\$352

EFFLUENT VIOLATION TABLE City of Madisonville TPDES Permit No. WQ0010215001 Docket No. 2011-1131-MWD-E			
Permitted Effluent Limits	Monitoring Period		
	June 2010	February 2011	March 2011
NH₃-N Daily Average Loading Limit = 16 lbs/day	32.0	20.9	48.4
NH₃-N Daily Average Concentration Limit = 2 mg/L	7.0	5.6	14.6
NH₃-N Daily Maximum Concentration Limit = 10 mg/L	18.4	11.2	16.2
TSS Daily Maximum Concentration Limit = 15 mg/L	c	c	17.7

NH₃-N = ammonia nitrogen
 TSS = total suspended solids
 c = compliant

mg/L = milligrams per liter
 lbs/day = pounds per day

Compliance History

Customer/Respondent/Owner-Operator: CN600511075 City of Madisonville Classification: AVERAGE Rating: 2.29

Regulated Entity: RN101719821 MADISONVILLE WASTEWATER PLANT Classification: AVERAGE Site Rating: 3.65

ID Number(s): WASTEWATER PERMIT WQ0010215001
WASTEWATER EPA ID TX0026662
WASTEWATER LICENSING LICENSE WQ0010215001

Location: 550 feet west of South Martin Luther King Street and
750 feet south of the intersection of South Martin Luther
King Street and 4th Street in Madison County, Texas

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: June 30, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 30, 2006 to June 30, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Lanae Foard Phone: (512) 239-2554

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator?
N/A
4. If Yes, who was/were the prior owner(s)/operator(s)?
N/A
5. When did the change(s) in owner or operator occur?
N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
- Effective Date: 11/19/2007 ADMINORDER 2007-0638-MWD-E
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)(A)
- Rqmt Prov: Monitor/Report Requirements No. 7 Pg. 5 PERMIT
- Description: Failure by the permittee to orally notify the TCEQ of an unauthorized discharge within 24 hours and provide written notification within 5 days of becoming aware of the noncompliance.
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
- Rqmt Prov: Permit Conditions, No. 2g Pg. 7 PERMIT
- Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.
- Effective Date: 05/03/2009 ADMINORDER 2008-1703-MWD-E
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
- 30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Effluent Limits PERMIT
- Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self reported data.
- Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov: Sludge Reporting Requirements PERMIT
Description: Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007

Effective Date: 03/08/2010

ADMINORDER 2009-1248-MWD-E

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: Operational Requirement; No. 4, Pg. 10 PERMIT

Description: Failure to install and subsequently maintain adequate safeguards to prevent the discharge

of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 03/27/2007 (535037)

2 09/11/2007 (571354)

3 02/13/2008 (596961)

4 12/04/2007 (610823)

5 05/12/2009 (613784)

6 02/29/2008 (618353)

7 05/19/2008 (691155)

8 05/19/2008 (691156)

9 05/19/2008 (691157)

10 05/19/2008 (691158)

11 05/19/2008 (691159)

12 05/19/2008 (691160)

13 05/19/2008 (691161)

14 05/19/2008 (691162)

15 05/19/2008 (691163)

16 05/19/2008 (691164)

17 05/19/2008 (691165)

18 05/19/2008 (691166)

19 05/19/2008 (691167)

20	05/19/2008	(691168)
21	05/19/2008	(691169)
22	05/19/2008	(691170)
23	05/19/2008	(691171)
24	05/19/2008	(691172)
25	05/19/2008	(691173)
26	05/19/2008	(691174)
27	05/19/2008	(691175)
28	05/19/2008	(691176)
29	05/19/2008	(691177)
30	05/19/2008	(691178)
31	05/19/2008	(691179)
32	05/19/2008	(691180)
33	05/19/2008	(691181)
34	05/19/2008	(691182)
35	05/19/2008	(691183)
36	10/23/2008	(704958)
37	06/06/2008	(712037)
38	07/10/2008	(712038)
39	10/29/2008	(712039)
40	09/04/2008	(712040)
41	09/30/2008	(728427)
42	10/02/2008	(728428)
43	11/13/2008	(728429)
44	04/03/2009	(740465)
45	06/04/2009	(747807)
46	02/06/2009	(751525)
47	03/06/2009	(751526)
48	12/08/2008	(751527)
49	01/13/2009	(751528)
50	07/22/2009	(762169)

51	06/21/2010	(763592)
52	04/14/2009	(769261)
53	05/07/2009	(769262)
54	02/04/2010	(807551)
55	06/23/2009	(807552)
56	07/08/2009	(807553)
57	08/11/2009	(807554)
58	09/03/2009	(807555)
59	10/05/2009	(807556)
60	11/09/2009	(807557)
61	12/09/2009	(807558)
62	01/08/2010	(807559)
63	07/05/2010	(829583)
64	07/20/2010	(829800)
65	03/04/2010	(831924)
66	04/05/2010	(831925)
67	05/14/2010	(831926)
68	06/04/2010	(846596)
69	06/30/2010	(861162)
70	08/05/2010	(867226)
71	09/07/2010	(874280)
72	10/07/2010	(881872)
73	02/11/2011	(887463)
74	11/16/2010	(888362)
75	12/08/2010	(896645)
76	01/13/2011	(902648)
77	02/07/2011	(909440)
78	03/08/2011	(916699)
79	04/07/2011	(925970)
80	06/24/2011	(932884)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/30/2006 (691169)

CN600511075

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2006 (691171) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2006 (691175) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007 (691162) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (691165) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (691168) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2007 (691170) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2007 (691174) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2007 (691176) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2008 (691163) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2008 (691166) CN600511075

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008 (712037) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2008 (712038) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2008 (712039) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2008 (712040) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2009 (751526) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/27/2009 (740465) CN600511075
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirement; No. 4, Pg. 10 PERMIT
Description: Failure to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

Date: 06/30/2010 (861162) CN600511075
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/21/2010 (829800) CN600511075
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monit. and Rprt Rqrs, No. 3b Pg. 5 PERMIT
Description: Failure by the permittee to have the annual sludge report on site and available for review by a TCEQ Representative.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(e)
Monit. and Rprt. Rqrs., Pg. 4, No. 2 PERMIT

Description: Failure by the permittee to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.

Self Report? NO Classification: Minor

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions, No. 2g Pg. 7 PERMIT

Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirements, No. 1 Pg. 9 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.6(b)(1)(E)

Description: Failure by the permittee to provide forced mechanical ventilation systems in the chlorination rooms.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.6(b)(1)(C)

Description: Failure by the permittee to maintain a scale for determining the amount of chlorine used daily.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(e)(5)

Description: Failure by the permittee to maintain a functional audiovisual alarm for each lift station.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)

Description: Failure by the permittee to conduct the required annual testing of the backflow prevention device.

Date: 02/28/2011 (916699) CN600511075

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2011 (925970) CN600511075

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF MADISONVILLE
RN101719821**

**§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1131-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Madisonville ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located 550 feet west of South Martin Luther King Street and 750 feet south of the intersection of South Martin Luther King Street and 4th Street in Madison County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 29, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Eight Hundred Sixty Dollars (\$7,860) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Five Hundred Seventy-Two Dollars (\$1,572) is

deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Six Thousand Two Hundred Eighty-Eight Dollars (\$6,288) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010215001, Final Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on June 9, 2011, and as shown in the violation table below:

EFFLUENT VIOLATION TABLE			
Permitted Effluent Limits	Monitoring Period		
	June 2010	February 2011	March 2011
NH ₃ -N Daily Average Loading	32.0	20.9	48.4
Limit = 16 lbs/day			
NH ₃ -N Daily Average Concentration	7.0	5.6	14.6
Limit = 2 mg/L			
NH ₃ -N Daily Maximum Concentration	18.4	11.2	16.2
Limit = 10 mg/L			
TSS Daily Maximum Concentration	c	c	17.7
Limit = 15 mg/L			

NH₃-N = ammonia nitrogen
TSS = total suspended solids
c = compliant

mg/L = milligrams per liter
lbs/day = pounds per day

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Madisonville, Docket No. 2011-1131-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand Two Hundred Eighty-Eight Dollars (\$6,288) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A,

incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010215001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826


4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/12/11

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Terri Creel

Name (Printed or typed)
Authorized Representative of
City of Madisonville

September 12, 2011

Date

Mayor

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2011-1131-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Madisonville

Penalty Amount: Six Thousand Two Hundred Eighty-Eight Dollars (\$6,288)

SEP Offset Amount: Six Thousand Two Hundred Eighty-Eight Dollars (\$6,288)

Type of SEP: Pre-approved

Third-Party Recipient: Austin Parks Foundation

Project Name: Restoration and Rehabilitation of the Barton Springs Bypass Tunnel

Location of SEP: Bastrop, Blanco, Burnett, Caldwell, Fayette, Hays, Lee, Llano, Travis, and Williamson Counties

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP offset amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to the **Austin Parks Foundation** for the *Restoration and Rehabilitation of the Barton Springs Pool Bypass Tunnel*. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the Third-Party Recipient and the TCEQ (the "Project"). The deteriorated condition of the Barton Springs Pool Bypass tunnel results in a significant increase of pollutants from urban runoff into the pool. Specifically, this SEP will restore and rehabilitate the Barton Springs Pool bypass tunnel inlet grate and outlet valve by providing funds for the engineering design, materials and construction activities to repair the tunnel.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

City of Madisonville
Agreed Order - Attachment A

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This Project benefits water quality by reducing the amount of pollutants reaching the environment.

C. Minimum Expenditure

Respondent shall contribute at least the SEP offset amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP offset amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Austin Parks Foundation
Charlie McCabe, Executive Director
816 Congress Avenue
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
PO Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP offset amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP offset amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP offset amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for

City of Madisonville
Agreed Order - Attachment A

reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.